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[REDACTED] EXAMINER

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2822

DATE MAILED: 04/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/846,127 Examiner Monica Lewis	CHEN ET AL. Art Unit 2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 August 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 and 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 and 21-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. This action is in response to the amendment filed January 28, 2003.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17 and 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 4-17, 21, 22, 24, 26-35 and 37-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of copending Application No. 09/846,047. Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

In regards to claim 1, Chen et al. discloses the following:

- a) an electron supply (See Claim 1);
- b) a cathode layer (See Claim 1); and
- c) a tunneling layer disposed between the electron supply and the cathode layer, wherein the electron supply, cathode layer, and tunneling layer have been subjected to an annealing process (See Claim 1).

In regards to claim 4, Chen discloses the following:

- a) cathode layer is selected from the group consisting of platinum, gold, molybdenum, tantalum, iridium, ruthenium, chromium, and alloys thereof (See Claim 3).

In regards to claim 5, Chen discloses the following:

- a) emission current of greater than 1×10^{-2} Amps per square centimeter (See Claim 4).

In regards to claim 6, Chen discloses the following:

a) emission current of greater than 1×10^{-1} Amps per square centimeter (See Claim 5).

In regards to claim 7, Chen discloses the following:

a) emission current of greater than 1×10 Amps per square centimeter (See Claim 6).

In regards to claims 8 and 39, Chen discloses the following:

a) tunneling layer has a thickness less than about 500 Angstroms (See Claim 8).

In regards to claim 9, Chen discloses the following:

a) tunneling layer has a thickness less than about 250 Angstroms (See Claim 7).

In regards to claims 10 and 38, Chen discloses the following:

a) tunneling layer has a thickness less than about 100 Angstroms (See Claim 8).

In regards to claims 11 and 26, Chen discloses the following:

a) tunneling layer has a thickness of about 50 Angstroms (See Claim 8).

In regards to claims 12, 27 and 37, Chen discloses the following:

a) tunneling layer has a thickness within the range of 50 to about 250 Angstroms (See Claim 8).

In regards to claim 13, Chen discloses the following:

a) a substrate (See Claim 10); and

b) emitter disposed on the substrate (See Claim 10);

c) circuitry for operating the emitter formed on the substrate with the emitter (See Claim 10).

In regards to claim 14, Chen discloses the following:

- a) the emitter capable of emitting energy (See Claim 11);
 - b) an anode structure capable of receiving the emitted energy and generating at least a first effect in response to receiving the emitted energy and a second effect in response to not receiving the emitted energy (See Claim 11).

In regards to claim 15, Chen discloses the following:

- a) a mass storage device and the anode structure is a storage medium, the electronic device further comprising a reading circuit for detecting the effect generated on the anode structure (See Claim 12).

In regards to claim 16, Chen discloses the following:

- a) electronic device is a display device and the anode structure is a display screen that creates a visible effect in response to receiving the emitted energy (See Claim 14).

In regards to claim 17, Chen discloses the following:

- a) display screen includes one or more phosphors operable for emitting photons in response to receiving the emitted energy (See Claim 15).

In regards to claim 21, Chen discloses the following:

- a) an electron supply layer (See Claim 17);
 - b) an insulator layer formed on the electron supply layer and having an opening defined within (See Claim 17);
 - c) a cathode layer (See Claim 17).
 - d) a tunneling layer formed on the electron supply layer in the opening (See Claim 17);
 - e) the emitter has been subjected to an annealing process to increase the supply of electrons tunneled from the electron supply layer to the cathode layer for energy emission (See Claim 17).

In regards to claim 22, Chen discloses the following:

- a) emitting photons in addition to the electron emission (See Claim 18).

In regards to claim 24, Chen discloses the following:

a) emission rate greater than about 0.01 Amps per square centimeter (See Claim 19).

In regards to claim 28, Chen discloses the following:

a) an integrated circuit including the emitter wherein the emitter emits a visible light source (See Claim 23);

b) a lens for focusing the visible light source, wherein the lens is coated with a transparent conducting surface to capture electrons emitted from the emitter (See Claim 23).

In regards to claim 29, Chen discloses the following:

a) a storage medium in close proximity to the emitter, the storage medium having a storage area being in one of a plurality of states to represent the information stored in that storage area; such that an effect is generated when the electron beam current bombards the storage area; the magnitude of the effect depends on the state of the storage area; and the information stored in the storage area is read by measuring the magnitude of the effect (See Claim 24).

In regards to claim 30, Chen discloses the following:

a) an integrated circuit including the emitter (See Claim 24).

b) a focusing device for converging the emissions from the emitter (See Claim 24).

In regards to claim 31, Chen discloses the following:

a) a microprocessor; the electronic device coupled to the microprocessor; and memory coupled to the microprocessor, the microprocessor operable of executing instructions from the memory to transfer data between the memory and the electronic device (See Claim 26).

In regards to claim 32, Chen discloses the following:

a) electronic device is a storage device (See Claim 27).

In regards to claim 33, Chen discloses the following:

a) electronic device is a display device (See Claim 28).

In regards to claim 34, Chen discloses the following:

- a) an electron supply surface (See Claim 29);
- b) an insulator layer formed on the electron supply surface and having a first opening defined within (See Claim 29);
- c) a conductive layer (See Claim 29);
- d) a cathode layer (See Claim 29);
- e) an adhesion layer disposed on the insulator layer, the adhesion layer defining a second opening aligned with the first opening (See Claim 29);
- f) a tunneling layer formed on the electron supply layer within the first, second, and third openings (See Claim 29);
- h) an emitter subjected to an annealing process (See Claim 29).

In regards to claim 35, Chen discloses the following:

- a) emission rate of about .1 to about 1.0 (See Claim 30).

In regards to claim 40, Chen discloses the following:

- a) emitting photons in addition to the electron emission (See Claim 35).

6. Claims 2, 3, 23, 25 and 36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of copending Application No. 09/846,047 in view of Negishi et al. (U.S. Patent No. 6,130,503).

This is a provisional obviousness-type double patenting rejection.

In regards to claims 2 and 23, Chen fails to disclose the following:

- a) tunneling layer is a metal cluster dielectric.

However, Negishi discloses a layer comprised of a metal cluster dielectric (See Column 12 Lines 15-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chen to include a metal cluster dielectric as disclosed in Negishi because it aids in providing a high resistance (See Column 11 Lines 45-63).

Additionally, since Chen and Negishi are both from the same field of endeavor, the purpose disclosed by Chen would have been recognized in the pertinent art of Negishi.

In regards to claims 3, 25 and 36, Chen fails to disclose the following:

a) tunneling layer is a metal cluster dielectric selected from the group consisting of TiO_x , TaO_x WSiN, $TaAlO_xN_y$, $TaAlO_x$, and AlO_xN_y .

However, Negishi discloses a layer comprised of TiO_x (See Column 12 Lines 15-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chen to include TiO_x as a metal cluster dielectric as disclosed in Negishi because it aids in providing a high resistance (See Column 11 Lines 45-63).

Additionally, since Chen and Negishi are both from the same field of endeavor, the purpose disclosed by Chen would have been recognized in the pertinent art of Negishi.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Hu (U.S. Patent No. 6,328,620).

In regards to claim 1, Chuman et al. ("Chuman") discloses the following:

- a) an electron supply (12) (See Figure 1);
- b) a cathode layer (15) (See Figure 1); and
- c) a tunneling layer (13) disposed between the electron supply and the cathode layer (See Figure 1).

In regards to claim 1, Chuman fails to disclose the following:

- a) an annealing process.

However, Hu discloses an annealing process (See Column 3 Lines 45-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include an annealing process as disclosed in Hu because it aids in improving the contact among components (See Column 3 Lines 46-64).

Additionally, since Chuman and Hu are both from the same field of endeavor, the purpose disclosed by Hu would have been recognized in the pertinent art of Chuman.

In regards to claim 2, Chuman disclose the following:

- a) tunneling layer is a metal cluster dielectric (See Column 4 Lines 20-62).

In regards to claim 3, Chuman discloses the following:

a) tunneling layer is a metal cluster dielectric selected from the group consisting of TiO_x , TaO_x WSiN , TaAlO_xN_y , TaAlO_x , and AlO_xN_y (See Column 4 Lines 20-62).

In regards to claim 4, Chuman discloses the following:

a) cathode layer is selected from the group consisting of platinum, gold, molybdenum, tantalum, iridium, ruthenium, chromium, and alloys thereof (See Column 7 Lines 60-62).

In regards to claim 5, Chuman discloses the following:

a) emission current of greater than 1×10^{-2} Amps per square centimeter (See Column 2 Lines 17-28).

Additionally, the applicant has not established the critical nature of the emission current of greater than 1×10^{-2} Amps per square centimeter. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

In regards to claim 6, Chuman disclose the following:

a) emission current of greater than 1×10^{-1} Amps per square centimeter (See Column 2 Lines 17-28).

Additionally, the applicant has not established the critical nature of the emission current of greater than 1×10^{-1} Amps per square centimeter. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

In regards to claim 7, Chuman discloses the following:

a) emission current of greater than 1×10 Amps per square centimeter (See Column 2 Lines 17-28).

Additionally, the applicant has not established the critical nature of the emission current of greater than 1×10 Amps per square centimeter. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within

the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 8, Chuman discloses the following:

a) tunneling layer has a thickness less than about 500 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 500 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 9, Chuman discloses the following:

a) tunneling layer has a thickness less than about 250 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 250 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 10, Chuman discloses the following:

a) tunneling layer has a thickness less than about 100 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 100 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 11, Chuman discloses the following:

a) tunneling layer has a thickness of about 50 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 50 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 12, Chuman discloses the following:

a) tunneling layer has a thickness within the range of 50 to about 250 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 50 to about 250 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that

the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

In regards to claim 14, Chuman discloses the following:

a) an anode (2) structure capable of receiving the emitted energy and generating at least a first effect in response to receiving the emitted energy and a second effect in response to not receiving the emitted energy (See Figure 1).

9. Claims 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Hu (U.S. Patent No. 6,328,620) and Xia (U.S. Patent No. 6,034,479).

In regards to claim 13, Chuman discloses the following:

a) a substrate (See Figure 1).

In regards to claim 13, Chuman fails to disclose the following:

a) circuitry for operating the emitter.

However, Xia discloses a control device (See Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a control device as disclosed in Xia because it aids in establishing a voltage differential (See Column 1 Lines 62-65).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

In regards to claim 16, Chuman discloses the following:

a) electronic device is a display device (See Column 1 Lines 61-65).

In regards to claim 16, Chuman fails to disclose the following:

a) the anode structure is a display screen that creates a visible effect in response to receiving the emitted energy.

However, Xia discloses an anode that is a display screen (See Column 1 Lines 29-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include an anode that is a display screen as disclosed in Xia because it aids in providing good display characteristics (See Column 1 Lines 29-32).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

In regards to claim 17, Chuman fails to disclose the following:

a) display screen includes one or more phosphors operable for emitting photons in response to receiving the emitted energy.

However, Xia discloses a display screen that has phosphors (See Column 1 Lines 37-43). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Simmons to include a display screen that has phosphors as disclosed in Xia because it aids in providing the luminescent display (See Column 1 Lines 29-43).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Hu (U.S. Patent No. 6,328,620), Xia (U.S. Patent No. 6,034,479) and Gibson et al. (U.S. Patent No. 5,557,596).

In regards to claim 15, Chuman fails to discloses the following:

a) reading circuit.

However, Xia discloses a reading circuit (See Figure 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a reading circuit as disclosed in Xia because it aids in measuring the current of the pixel (See Column 5 Lines 6-30).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

b) electronic device is a mass storage device and the anode structure is a recording medium.

However, Gibson et al. ("Gibson") discloses a memory device that has an anode storage area (See Column 2 Lines 1-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a storage medium as disclosed in Gibson because it provides a medium to store data (See Column 2 Lines 1-9).

Additionally, since Chuman and Gibson are both from the same field of endeavor, the purpose disclosed by Gibson would have been recognized in the pertinent art of Chuman.

11. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Moyer (U.S. Patent No. 5,473,218) and Hu (U.S. Patent No. 6,328,620).

In regards to claim 21, Chuman discloses the following:

- a) an electron supply layer (See Figure 1);
- b) a tunneling layer formed on the electron supply layer (See Figure 1);
- c) a cathode layer (See Figure 1).

In regards to claim 21, Chuman fails to disclose the following:

- a) an insulator layer having an opening.

However, Moyer discloses an insulator layer having an opening (See Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include an insulator layer having an opening as disclosed in Moyer because it aids in permitting emission to occur in the opening (See Column 1 Lines 51-67 and Column 2 Lines 1-17).

Additionally, since Chuman and Moyer are both from the same field of endeavor, the purpose disclosed by Moyer would have been recognized in the pertinent art of Chuman.

- b) an annealing process.

However, Hu discloses an annealing process (See Column 3 Lines 45-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include an annealing process as disclosed in Hu because it aids in improving the contact among components (See Column 3 Lines 46-64).

Additionally, since Chuman and Hu are both from the same field of endeavor, the purpose disclosed by Hu would have been recognized in the pertinent art of Chuman.

In regards to claim 22, Chuman fails to disclose the following:

- a) emitting photons in addition to the electron emission.

However, Moyer discloses the emission of photons (See Column 3 Lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include the emission of photons as disclosed in Moyer because it aids in emitting light (See Column 3 Lines 1-3).

Additionally, since Chuman and Moyer are both from the same field of endeavor, the purpose disclosed by Moyer would have been recognized in the pertinent art of Chuman.

In regards to claim 23, Chuman discloses the following:

- a) tunneling layer is a metal cluster dielectric (See Column 4 Lines 20-62).

In regards to claim 24, Chuman discloses the following:

- a) emission rate greater than about 0.01 Amps per square centimeter (See Column 2 Lines 17-28).

Additionally, the applicant has not established the critical nature of the emission rate greater than .01 Amps. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

In regards to claim 25, Chuman discloses the following:

- a) tunneling layer is a metal cluster dielectric selected from the group consisting of TiO_x , TaO_x WSiN , TaAlO_xN_y , TaAlO_x , and AlO_xN_y (See Column 4 Lines 20-62).

In regards to claim 26, Chuman discloses the following:

- a) tunneling layer has a thickness less than about 500 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 500 Angstroms. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that

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the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 27, Chuman discloses the following:

a) tunneling layer has a thickness within the range of 50 to about 250 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 50 to about 250 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

12. Claims 28, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Moyer (U.S. Patent No. 5,473,218), Hu (U.S. Patent No. 6,328,620) and Xia (U.S. Patent No. 6,034,479).

In regards to claim 28, Chuman discloses the following:

a) the emitter emits a visible light source (See Figure 1).

In regards to claim 28, Chuman fails to disclose the following:

a) a lens for focusing the visible light source, wherein the lens is coated with a transparent conducting surface to capture electrons emitted from the emitter.

However, Xia discloses a screen (16) (See Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a screen as disclosed in Xia because it aids in providing the luminescent display (See Column 1 Lines 29-32).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

In regards to claim 31, Moyer fails to disclose the following:

a) a microprocessor; the electronic device coupled to the microprocessor; and memory coupled to the microprocessor, the microprocessor operable of executing instructions from the memory to transfer data between the memory and the electronic device (See Figure 3).

However, Xia discloses a microprocessor (33) (See Figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Moyer to include a microprocessor as disclosed in Xia because it aids in controlling the circuit (See Column 4 Line 12).

Additionally, since Chuman and Xia are both from the same field of endeavor, the purpose disclosed by Xia would have been recognized in the pertinent art of Chuman.

In regards to claim 33, Moyer fails to disclose the following:

a) electronic device is a display device (See Column 1 Lines 61-65).

However, Xia discloses a field emission display device (See Column 1 Lines 29-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Moyer to include a display device as disclosed in Xia because field emission is important in providing good portable screens with good display characteristics.

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13. Claims 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Moyer (U.S. Patent No. 5,473,218), Hu (U.S. Patent No. 6,328,620) and Gibson et al. (U.S. Patent No. 5,557,596).

In regards to claim 29, Chuman fails to disclose the following:

a) a storage medium in close proximity to the emitter, the storage medium having a storage area being in one of a plurality of states to represent the information stored in that storage area; such that an effect is generated when the electron beam current bombards the storage area; the magnitude of the effect depends on the state of the storage area; and the information stored in the storage area is read by measuring the magnitude of the effect (See Column 2 Lines 15-20).

However, Gibson discloses a storage device (See Figure 1 and Column 2 lines 10-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a storage device as disclosed in Gibson because it provides a medium to store data (See Column 2 Lines 1-9).

Additionally, since Chuman and Gibson are both from the same field of endeavor, the purpose disclosed by Gibson would have been recognized in the pertinent art of Chuman.

In regards to claim 32, Moyer fails to disclose the following:

a) electronic device is a storage device.

However, Gibson et al. ("Gibson") discloses a memory device that has an anode storage area (See Column 2 Lines 1-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include a storage medium as disclosed in Gibson because it provides a medium to store data (See Column 2 Lines 1-9).

Additionally, since Chuman and Gibson are both from the same field of endeavor, the purpose disclosed by Gibson would have been recognized in the pertinent art of Chuman.

14. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Moyer (U.S. Patent No. 5,473,218), Hu (U.S. Patent No. 6,328,620) and Suehiro et al. (U.S. Publication No. 2002/0024808).

In regards to claim 30, Chuman fails to disclose the following:

a) a focusing device for converging the emissions from the emitter (See Column 1 Lines 29-43).

However, Suehiro et al. ("Suehiro") discloses converging emissions (See Figure 40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include converging emissions as disclosed in Suehiro because it aids in the radiation of light (See Paragraphs 143 and 144).

Additionally, since Chuman and Suehiro are both from the same field of endeavor, the purpose disclosed by Suehiro would have been recognized in the pertinent art of Chuman.

15. Claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuman et al. (U.S. Patent No. 6,023,124) in view of Moyer (U.S. Patent No. 5,473,218), Hu (U.S. Patent No. 6,328,620) and Huang et al. (U.S. Patent No. 5,702,281).

In regards to claim 34, Chuman discloses the following:

- a) an electron supply surface (See Figure 1);
- b) a tunneling layer formed on the electron supply (See Figure 1);
- c) a cathode layer (See Figure 1).

In regards to claim 34, Chuman fails to disclose the following:

- a) an insulator layer having a first opening.

However, Moyer discloses an insulator layer having an opening (See Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify the semiconductor device of Chuman to include an insulator layer having an opening as disclosed in Moyer because it aids in permitting emission to occur in the opening (See Column 1 Lines 51-67 and Column 2 Lines 1-17).

Additionally, since Chuman and Moyer are both from the same field of endeavor, the purpose disclosed by Moyer would have been recognized in the pertinent art of Chuman.

b) an adhesion layer.

However, Huang et al. ("Huang") discloses an adhesion layer (See Column 3 Lines 60-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Moyer to include an adhesion layer as disclosed in Huang because it aids in providing improved adhesion among the layers (See Column 3 Lines 60-67).

Additionally, since Chuman and Huang are both from the same field of endeavor, the purpose disclosed by Huang would have been recognized in the pertinent art of Chuman.

c) a conductive layer.

However, Moyer discloses a conductive layer (See Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Moyer to include a conductive layer as disclosed in Moyer because it aids in controlling the emission of electrons.

Additionally, since Chuman and Moyer are both from the same field of endeavor, the purpose disclosed by Moyer would have been recognized in the pertinent art of Chuman.

d) an emitter subjected to an annealing process.

However, Hu discloses an annealing process (See Column 3 Lines 45-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include an annealing process as disclosed in Hu because it aids in improving the contact among components (See Column 3 Lines 46-64).

Additionally, since Chuman and Hu are both from the same field of endeavor, the purpose disclosed by Hu would have been recognized in the pertinent art of Chuman.

In regards to claim 35, Chuman discloses the following:

- a) emission rate of about .1 to about 1.0 (See Column 2 Lines 17-28).

Additionally, the applicant has not established the critical nature of the emission rate of about .1 to about 1.0. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

In regards to claim 36, Chuman discloses the following:

- a) tunneling layer is a metal cluster dielectric selected from the group consisting of TiO_x , TaO_x WSiN , TaAlO_xN_y , TaAlO_x , and AlO_xN_y (See Column 4 Lines 20-62).

In regards to claim 37, Chuman discloses the following:

- a) tunneling layer has a thickness within the range of 50 to about 250 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 50 to about 250 Angstroms. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such

a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 38, Chuman discloses the following:

a) tunneling layer has a thickness less than about 100 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 100 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 39, Chuman discloses the following:

a) tunneling layer has a thickness less than about 500 Angstroms (See Column 5 Lines 30-33).

Additionally, the applicant has not established the critical nature of the dimension of 500 Angstroms. “The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range.” *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990).

In regards to claim 40, Chuman fails to disclose the following:

a) electron emitting surface also emits photon energy.

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However, Moyer discloses the emission of photons (See Column 3 Lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the semiconductor device of Chuman to include the emission of photons as disclosed in Moyer because it aids in emitting light (See Column 3 Lines 1-3).

Additionally, since Chuman and Moyer are both from the same field of endeavor, the purpose disclosed by Moyer would have been recognized in the pertinent art of Chuman.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica Lewis whose telephone number is 703-305-3743. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian, can be reached on 703-308-4905. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722 for regular and after final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

ML
March 30, 2003



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